

No. PD-1066-17

STATE OF TEXAS,
Appellant-Petitioner

v.

DAI'VONTE E'SHAUN TITUS ROSS,
Appellee-Respondent

§ IN THE TEXAS COURT
§ COURT OF CRIMINAL APPEALS
§ 5/22/2018
§ DEANA WILLIAMSON, CLERK
§ OF CRIMINAL APPEALS
§
§
§ AUSTIN, TEXAS

STATE'S MOTION FOR LEAVE TO FILE A REPLY BRIEF

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

NOW COMES the State of Texas, by and through Nicholas "Nico" LaHood, Criminal District Attorney of Bexar County, Texas, and the undersigned assistant criminal district attorney, with the filing of this motion asking the Court for leave to file a reply brief.

I. STATEMENT OF THE CASE

This court granted the State's petition for discretionary review on January 24, 2018. The State filed its brief on the merits on March 12, 2018. Ross subsequently filed his brief on April 12, 2018. Pursuant to Rule 70.4, the State moves this Court to allow the State to file an additional brief.

II. REASONS FOR THE REQUEST

The State files this brief to assist this Court in construing the term "manner calculated to alarm." In his brief, Ross provides this Court with case law holding

that the term “calculated” means “likely” rather than “intentional” or “deliberate.”
The State’s reply brief addresses this issue and is filed to assist this Court in
construing the phrase “manner calculated to alarm.”

III. PRAYER

WHEREFORE, PREMISES CONSIDERED, Counsel for the State prays the
Court grant permission to file an additional brief pursuant to Rule 70.4.

Respectfully submitted,

NICHOLAS “NICO” LAHOOD
Criminal District Attorney
Bexar County Texas

/s/ *Nathan E. Morey*

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CERTIFICATE OF SERVICE

I, Nathan E. Morey, certify that a copy of the foregoing brief has been delivered by email to Mac Bozza and the Office of the State Prosecuting Attorney in accordance with Rules 6.3(a), 9.5(b), and 68.11 of the Texas Rules of Appellate Procedure.

/s/ Nathan E. Morey

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